

Bureau of Customs and Border Protection

Treasury Decision

19 CFR Part 111

(T.D. 03–23)

RIN 1515–AD28

CUSTOMS BROKER LICENSE EXAMINATION DATES

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: Interim rule.

SUMMARY: This document sets forth an interim amendment to Part 111 of the Customs Regulations which governs the licensing and conduct of individuals, corporations, and other entities as Customs brokers. The amendment involves the addition of a provision that would allow Customs and Border Protection to publish a notice changing the date on which a semi-annual written examination for an individual broker's license will be held when the normal date conflicts with a holiday, religious observance, or other scheduled event.

DATES: Interim rule effective May 29, 2003; comments must be submitted by July 28, 2003.

ADDRESSES: Written comments are to be addressed to the Bureau of Customs and Border Protection, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue N.W., Washington, D.C. 20229. Submitted comments may be inspected at the Bureau of Customs and Border Protection, 799 9th Street N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mike Craig, Office of Field Operations (202–927–1684).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 641 of the Tariff Act of 1930, as amended (19 U.S.C. 1641), provides that a person (an individual, corporation, association, or part-

nership) must hold a valid customs broker's license and permit in order to transact customs business on behalf of others, sets forth standards for the issuance of broker's licenses and permits, and provides for the taking of disciplinary action against brokers that have engaged in specified types of infractions. In the case of an applicant for an individual broker's license, section 641 provides that the Secretary of the Treasury may conduct an examination to determine the applicant's qualifications for a license. Section 641 also authorizes the Secretary of the Treasury to prescribe rules and regulations relating to the customs business of brokers as may be necessary to protect importers and the revenue of the United States and to carry out the provisions of section 641.

The regulations issued under the authority of section 641 are set forth in Part 111 of the Customs Regulations (19 CFR Part 111). Part 111 includes detailed rules regarding the licensing of, and granting of permits to, persons desiring to transact customs business as customs brokers, including the qualifications required of applicants and the procedures for applying for licenses and permits. Section 111.11 sets forth the basic requirements for a broker's license and, in paragraph (a)(4), provides that an applicant for an individual broker's license must attain a passing grade on a written examination taken within the 3-year period before submission of the license application prescribed under § 111.12. Section 111.13 sets forth the requirements and procedures for the written examination for an individual broker's license. Paragraph (b) of § 111.13 concerns the date and place of the examination and, in the first sentence, provides that "[w]ritten examinations will be given on the first Monday in April and October."

Customs and Border Protection (CBP) notes that the first Monday in October 2003, that is, October 6th, coincides with the observance of Yom Kippur, and CBP further notes that the regulatory text quoted above does not provide for the adoption of alternative examination dates. In order to avoid conflicts with national holidays, religious observances, and other foreseeable events that could limit an individual's opportunity to take the broker's examination, CBP believes that § 111.13(b) should be amended to provide CBP with some flexibility in those circumstances as regards the determination of the specific date on which an examination will be given. Accordingly, this document amends the first sentence of § 111.13(b) to provide for an exception to the general rule when the scheduled examination date conflicts with a national holiday, religious observance, or other foreseeable event and CBP publishes in the Federal Register an appropriate notice of a change in the examination date.

COMMENTS

Before adopting this interim regulation as a final rule, consideration will be given to any written comments timely submitted to CBP, including comments on the clarity of this interim rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C.

552) and § 103.11(b) of the Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Office of Regulations and Rulings, Bureau of Customs and Border Protection, 799 9th Street, N.W., Washington, D.C. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

INAPPLICABILITY OF NOTICE AND DELAYED EFFECTIVE DATE REQUIREMENTS AND THE REGULATORY FLEXIBILITY ACT

Pursuant to the provisions of 5 U.S.C. 553(b)(B), CBP has determined that prior public notice and comment procedures on this regulation are unnecessary and contrary to the public interest. The regulatory change provides a benefit to prospective applicants for individual customs broker licenses and imposes no new regulatory burden or obligation on any member of the general public. For the same reasons, pursuant to the provisions of 5 U.S.C. 553(d)(1) and (3), CBP finds that there is good cause for dispensing with a delayed effective date. Because no notice of proposed rulemaking is required for interim regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

EXECUTIVE ORDER 12866

This document does not meet the criteria for a “significant regulatory action” as specified in E.O. 12866.

DRAFTING INFORMATION

The principal author of this document was Francis W. Foote, Office of Regulations and Rulings, Bureau of Customs and Border Protection. However, personnel from other offices participated in its development.

LIST OF SUBJECTS IN 19 CFR PART 111

Administrative practice and procedure, Brokers, Customs duties and inspection, Imports, Licensing, Reporting and recordkeeping requirements.

AMENDMENT TO THE REGULATIONS

For the reasons set forth in the preamble, Part 111 of the Customs Regulations (19 CFR Part 111) is amended as set forth below.

PART 111—CUSTOMS BROKERS

1. The authority citation for Part 111 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States), 1624, 1641.

* * * * *

2. In § 111.13, the first sentence of paragraph (b) is revised to read as follows:

§ 111.13 Written examination for individual license.

* * * * *

(b) *Date and place of examination.* Written examinations will be given on the first Monday in April and October unless the regularly scheduled

examination date conflicts with a national holiday, religious observance, or other foreseeable event and the agency publishes in the Federal Register an appropriate notice of a change in the examination date. * * *

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ROBERT C. BONNER,
Commissioner,
Customs and Border Protection.

Approved: April 24, 2003.

TIMOTHY E. SKUD,
Deputy Assistant Secretary of the Treasury.

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